

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA**

In re: Otmaro W. Service

Debtor.

TD Bank, N.A.

Movant

vs.

Otmaro W. Service

Respondent.

Docket No. 22-10641-amc

Chapter 13

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

TD Bank, N.A. ("Movant") hereby moves this Court, pursuant to 11 U.S.C. §362, for relief from the automatic stay with respect to certain real property of the Debtors having an address of 1145 Rosalie Street, Philadelphia, PA 19111 (the "Property"), for all purposes allowed by the Note (defined below), the Mortgage (defined below), and applicable law, including but not limited to the right to foreclose. In further support of this Motion, Movant respectfully states:

1. A petition under Chapter 13 of the United States Bankruptcy Code was filed with respect to the Debtors on March 16, 2022.

2. On or about October 13, 2005, Andrea W. Clarke executed and delivered is obligated with respect to that certain Note in the original principal amount of \$78,300.00 (the "Note"). A copy of the Note is attached hereto as Exhibit "A." Movant is the entity entitled to enforce the Note.

3. Pursuant to that certain Mortgage, dated October 13, 2005 and recorded in the office of the Recorder of Deeds of Philadelphia County, Pennsylvania, (the "Mortgage"), all obligations (collectively, the "Obligations") of the Debtors under and with respect to the Note and the Mortgage are secured by the Property. A copy of the Mortgage is attached hereto as Exhibit "B."

4. As of May 25, 2022, the approximate outstanding amount of the Obligations less any partial payments or suspense balance is \$102,101.58.

5. In addition to the other amounts due to Movant reflected in this Motion, as of the date hereof, in connection with seeking the relief requested in this Motion, Movant has also incurred \$980.00 in legal fees and costs. Movant reserves all rights to seek an award or allowance of such fees and expenses in

accordance with applicable loan documents and related agreements, the Bankruptcy Code and otherwise applicable law.

6. The following chart sets forth the number and amount of post-petition payments due pursuant to the terms of the Note that have been missed by the Debtors as of May 16, 2024:

Number of Missed Payments	From	To	Monthly Payment Amount	Total Amounts Delinquent
26	April 16, 2022	May 16, 2024	\$525.76	\$13,669.76

Total: \$13,669.76

7. As of May 16, 2024, the total post-petition arrearage/delinquency is \$13,669.76.

8. The amount of the next monthly payment of the Debtors due under the terms of the Note and Mortgage is \$525.76.

9. Cause exists for relief from the automatic stay as post-petition payments required by the confirmed plan or proposed plan have not been made to Movant.

WHEREFORE, Movant prays that this Court issue an Order terminating or modifying the stay and granting the following:

1. Relief from the automatic stay with respect to the Property.
2. That the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code.
3. For such other relief as the Court deems proper.

Creditor further requests that upon entry of an order granting relief from stay, it be exempted from further compliance with Fed. Rule Bankr. P. 3002.1 in the instant bankruptcy case.

/s/ Edward J. McKee
Edward J. McKee
Duane Morris, LLP
Attorney for TD Bank, N.A.

Date: June 14, 2024